

ADMINISTRATION

1.0. FEDERAL STATUTES AND REGULATIONS

1.1. Compliance with Federal Statutes

Contractors shall comply with Federal laws and regulations which apply to the administration of TRICARE. In many situations where Federal law is in conflict with the law in the state(s) in which the contractor is based or operating, Federal statute may have precedence. Coordination of benefits under TRICARE is a Federal statutory requirement. Section 1 of this Attachment 17 provides information relating to Federal statutes which have substantial significance in a contractor's performance and the operations of systems of records on behalf of DoD containing Sensitive Information. Sections 2 and 3 of this Attachment 17 provide more detailed information regarding contractor compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and implementation of the Act's privacy provisions through the Department of Health and Human Services (HHS) Privacy Regulation (45 Code of Federal Regulations (CFR) Parts 160 and 164) and the DoD Health Information Privacy Regulation (DoD 6025.18-R). All contractor staff must be educated in matters relating to freedom of information and the privacy rights of the beneficiary.

1.2. Administrative and Physical Safeguards

The contractor shall have in place administrative, technical, and physical safeguards to protect the privacy of protected health information in all forms, including electronic data, electronic communications, oral communications and paper formats. The safeguards shall be in accordance with DoD Privacy Program (DoD 5400.11-R, Chapter 1.C1.4 (web based version)).

1.3. Workforce Training and Personnel Security

1.3.1. The contractor shall develop and implement a formal initial and ongoing workforce training program including training on updates as they occur, to ensure high quality service to beneficiaries. Training shall include: TRICARE law, regulations, and instructions; requirements of the NQMC; and contractor internal policies and instructions. The Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (ADAMHA); the Privacy Act of 1974, and the Health Insurance Portability and Accountability Act each impose specific training requirements on the contractor. Paragraph 3.0. below provides a description of the ADAMHA and the areas of the Act that should be included in the contractor's training program. Paragraph 4.0. provides a description of the Privacy Act and the areas of the Act that should be included in the contractor's training program. Section 2 provides a description of the HIPAA and the areas of the Act that should be included in the contractor's training program.

1.3.2. The contractor shall train all workforce members (including, but not limited to, employees, volunteers, trainees, temporary employees, and other persons who conduct, and perform work for the contractor) to carry out functions with respect to the ADAMHA, the Privacy Act (including DoD 5400.11-R (web based version)), and the HIPAA (including Dod 6025.18.R).

1.3.2.1. The contractor shall provide workforce training as follows:

1.3.2.1.1. Each new member of the workforce shall be trained within 40 working days of starting work

1.3.2.1.2. Subsequent refresher training shall be conducted annually to demonstrate the importance of the applicable laws and regulations to ensure the workforce understands the rules, policies and procedures

1.3.2.1.3. Retraining must occur within 30 working days for all members of the workforce whose functions are affected by a material change to these laws and regulations that affect TRICARE or the contractor's policies and procedures.

1.3.3. The contractor shall document the personnel files of the workforce members who receive the training and the date of the training. Centralized documentation shall also be maintained of the training sessions agendas, identity of attendees, actual dates of training, and duration of training sessions. The contractor is also responsible for ensuring that any subcontractor workforce is also trained.

1.3.4. All workforce members (including employees, trainees, temporary employees, and other persons who conduct and perform work for the contractor) and who have access to and/or operate a system of record in support of this contract shall comply with the requirements of Section C.14.5.

2.0. ***FREEDOM OF INFORMATION ACT***

2.1. ***Purpose***

The Freedom of Information Act (FOIA) was enacted in 1967 as an amendment to the "Public Information" section of the Administrative Procedures Act. The purpose of the Freedom of Information Act was to reach a workable balance between the right of the public to know and the need of the Government to keep information in confidence, to the extent necessary, without permitting indiscriminate secrecy.

2.2. ***Policy Of DoD***

The policy of the Department of Defense is to make available to the public the maximum amount of information concerning its operations and activities. Procedures by which information is made available to the public have been implemented by the Department of Defense to ensure compliance with the 1974 Amendments to the Freedom of Information Act. The TRICARE Management Activity (TMA) is subject to these provisions, as are TRICARE contractors.

2.3. *Procedures*

TRICARE Freedom of Information Act procedures require a written request under the Act to be addressed to the Freedom of Information Officer, TMA, 16401 East Centretex Parkway, Aurora, Colorado 80011-9066. The request shall describe the desired record as completely as possible to facilitate its retrieval from files and to reduce search fees which may be borne by the requestor. Normally, no more than ten working days shall elapse after a request has been received by the Freedom of Information Officer before notification is sent that the request has been granted or denied. The administrative time limit for responding to FOIA requests does not begin until the request is received by the TMA Freedom of Information Officer.

2.4. *Request For Release Of Information*

In response to requests received by contractors for the release of information, unclassified information, documents and forms which were previously provided to the public as part of routine services shall continue to be made available in accordance with previously established criteria. All other requests from the public for release of TRICARE records and, specifically, all requests that reference the Freedom of Information Act shall be immediately forwarded to TMA, ATTENTION: Freedom of Information Officer, for appropriate action. **Direct contact, including interim replies, between TRICARE contractors and such requestors is not authorized.** The contractor shall process requests by individuals for access to records about themselves under the Privacy Act procedures when those procedures are more advantageous to the requestor.

2.5. *Requests From The General Accounting Office, etc.*

The procedures above apply to the release of records to the general public and are not applicable to requests from the General Accounting Office and other Federal, State, and local governmental organizations. Questions concerning such requests shall be coordinated with TMA. The procedures above, also apply to requests for records by individual Members of Congress who invoke the Freedom of Information Act.

2.6. *Records Forwarded To TMA*

When a request for a TRICARE record is forwarded to TMA, a copy of the requested record, if in the contractor's custody, shall also be forwarded. The contractor shall provide a completed copy of DD Form 2086, "Record of FOI Case Processing Costs," reporting the direct search and copying charges associated with each request. DD Form 2086, Addendum B, Figure B-2, may be reproduced by the contractor.

2.7. *Contractor Provided Assistance To TMA*

The contractor shall provide assistance to TMA in resolving and pursuing Freedom of Information Act (FOIA) requests involving the contractor's proposal submitted during solicitation of a Managed Care Support contract or FOIA issues relative to the contract. The contractor shall provide representatives at the time and places as directed by the Contracting Officer to complete actions under FOIA. The contractor's representative(s) should schedule 80 hours to review both the technical and business proposals.

3.0. THE ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION REORGANIZATION ACT (ADAMHA)

The Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, Public Law 102-321 (enacted July 10, 1992, with an effective date of October 1, 1992) (42 U.S.C. Section 290dd-2) places specific requirements upon Federal agencies (and their agents) for the confidentiality and disclosure of records of the identify, diagnosis, prognosis or treatment of any beneficiary in connection with a substance abuse, alcoholism or alcohol abuse program. The HHS Privacy Regulation permits a health care provider to disclose information in a number of situations that are not permitted under the ADAMHA substance abuse regulation. For example, disclosures may be allowed without patient authorization under the HHS Privacy Regulation for law enforcement, judicial and administrative proceedings, public health, health oversight, directory assistance, and as required by other laws whereas such disclosures would generally be prohibited under the substance abuse statute and regulation. However, because these disclosures are discretionary and not mandatory, a covered entity would not be in violation of the HHS Privacy Regulation rules for not disclosing this information in compliance with ADAMHA requirements. *(The procedures established below supersede the requirements of the Privacy Act for records covered by ADAMHA.)*

3.1. General Rules Regarding Confidentiality

Records of the identity, diagnosis, prognosis or treatment of any beneficiary in connection with a substance abuse, alcoholism or alcohol abuse program shall be confidential and shall be disclosed only as authorized in the procedures found in 42 CFR Part 2 which is titled "Confidentiality of Alcohol and Drug Abuse Patient Records." Such written records and verbal information that would identify a person as a beneficiary receiving alcohol or drug treatment shall not otherwise be disclosed in any civil, criminal, administrative or legislative proceeding. This prohibition covers all information about the beneficiary. The criminal penalty for violation of the law is a fine of not more that \$500 for the first offense and not more than \$5,000 for each subsequent offense.

3.2. TRICARE Contractor Responsibility Regarding Confidentiality Of Alcohol And Substance Abuse Records

The contractor shall establish and maintain procedures and controls for the purpose of assuring the confidentiality of the records of beneficiaries in connection with alcohol and substance abuse programs and for the disclosure of information from the contractor records only as provided in the referenced statutes and regulations and in accordance with the following instructions:

3.2.1. Collection Of Information

When medical information is requested by a TRICARE contractor pertaining to identity, diagnosis, prognosis, or treatment of a TRICARE beneficiary in connection with a substance abuse, alcoholism, or alcohol abuse program, informed written consent shall be obtained from the beneficiary using the model consent form found in 42 CFR Part 2 Subpart C which is titled "Disclosures With Patient's Consent."

3.2.1.1. *Minor Beneficiaries*

The Federal rule relies on State laws to define minors, or if no age of majority is specified in the applicable State law, the age of eighteen years. When State law requires parental consent for treatment, then consent to disclose information must be obtained by either the minor beneficiary or the person authorized to sign in lieu of the minor beneficiary and the custodial parent (or guardian). Regardless of the requirement for parental consent, the contractor must always obtain the minor's consent or person authorized to sign in lieu of the minor beneficiary, for disclosure the parent's signature alone is not sufficient. If a beneficiary has been legally declared an emancipated minor, they are to be considered as an adult. If the beneficiary is under 18 years of age and is or was a spouse of an active duty service member or retiree, they are considered to be an emancipated minor.

3.2.1.2. *Incompetent Beneficiaries*

For beneficiaries, other than minors, judged to be incompetent, the consent may be given by the guardian or other person authorized under state law to act in the patient's behalf.

3.2.1.3. *Deceased Beneficiaries*

When consent is required for collection or disclosure of records of a deceased patient, consent may be obtained from an executor, administrator, or other personal representative of the deceased beneficiary's estate. If such a representative has not been appointed, the spouse, or if none, other responsible family member may give consent.

3.2.2. *Disclosure Of Information*

When covered information is requested by a person other than the TRICARE beneficiary to whom the records pertain, informed written consent shall be obtained from the beneficiary using the model consent form, found in 42 CFR Part 2 Subpart C subject to paragraphs 3.2.1.1, 3.2.1.2, and 3.2.1.3, above and the following instructions. The contractor shall maintain the original signed consent form with a copy of the documents disclosed.

3.2.2.1. *Disclosure To Beneficiary Or Family Members Or Others*

Disclosure to the beneficiary shall be determined in accordance with the procedures set forth in paragraph 4.6. When consent is given, disclosure to family members or any person with whom the beneficiary has a personal relationship may be made unless, in the judgment of the person responsible for the beneficiary's treatment, the disclosure would be harmful to the beneficiary.

3.2.2.2. *Disclosure To Non-Custodial Parent*

In paragraphs citing the Alcohol, Drug Abuse and Mental Health Administration Act, the term "parent" refers to custodial parent. In general there is no absolute right of a non-custodial parent to have access to a record about a child absent a court order or consent notwithstanding that private information may be retrievable only by the Sponsor's Social Security Number. A non-custodial parent may not generally have access to the minor child's medical information. In some cases involving separation or divorce, it may be necessary to

review the court order to determine the specific intent of the court with relation to medical issues involving a minor. The privacy of persons receiving alcohol and substance abuse prevention and treatment services is protected by Federal statute and regulations.

3.2.2.3. ***Disclosure Without Beneficiary Consent***

Disclosure without beneficiary consent may be made in certain circumstances described in 42 CFR Part 2 Subpart D. These circumstances include the following:

- Medical emergencies when medical personnel have a need for information about a patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention.
- Research, audit, management and evaluation activities (including disclosure of financial information) conducted within and between the Department of Defense, TRICARE, TRICARE contractors, the Veterans Administration, and the Department of Health and Human Services.
- In compliance with an appropriate order of a court of competent jurisdiction.

3.2.2.4. ***Prohibition On Redisclosure***

Whenever a written disclosure is made, with proper written consent, the disclosure shall be accompanied by a written statement as follows:

“Prohibition on redisclosure: This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal Regulations (42 CFR Part 2) prohibit you from making any further disclosure of this information except with the specific written consent of the person to whom it pertains. A general authorization for the release of medical or other information, if held by another party, is ***not*** sufficient for this purpose. Federal regulations state that any person who violates any provision of this law shall be fined not more than \$500 in the case of a first offense and not more than \$5,000 in the case of each subsequent offense.”

NOTE: This statement shall either appear on correspondence transmitting the documents or be stamped on the first page of the documents disclosed. (A program or person is subject to the confidentiality requirements of 42 CFR Part 2 if records are maintained for any alcohol abuse or substance abuse function which received federal funds or is conducted by a federal agency, requires a federal license or authorization or has a tax-exempt status.)

3.2.3. ***Other Disclosures***

Requests for disclosures in situations not specified above shall be made only with the written authorization of the Office of General Counsel, TMA.

3.2.4. ***State Authorities/Program Directors***

For information regarding state and territorial alcoholism authorities and program directors contact:

National Clearinghouse for Alcohol Information

P. O. Box 2345
Rockville, MD 20852
Telephone: (301) 468-2600

National Institute on Alcohol Abuse and Alcoholism

Division of Resource Development
State Assistance Branch
5600 Fishers Lane
Rockville, MD 20857

4.0. ***THE PRIVACY ACT OF 1974***

The Privacy Act imposes legal responsibility on the Department of Defense (DoD) and TRICARE contractors to assure that personal information about individuals collected in TRICARE records is limited to that which is legally authorized and necessary, and the personal information is maintained in a manner which assures its confidentiality. This paragraph sets forth the basic guidance concerning Department of Defense implementation of the Privacy Act and contractor responsibility for compliance. However, in administration of a medical benefit program some common sense must be applied in responding to correspondence. Although the Privacy Act restricts disclosure of personal information outside the agency (Department of Defense and contractors), such restrictions do not justify non-response to inquiries or other Program correspondence. The following are the relevant instructions regarding compliance with the Privacy Act (Title 5, United States Code, Section 552a) as implemented by DoD Regulation 5400.11-R. Contractors operating a TRICARE claims or health care system are responsible for compliance. To the extent the following procedures conflict with the procedures set forth in paragraph 7.0. pertaining to HIPAA privacy provisions, the more restrictive procedures between this paragraph and paragraph 7.0. take precedence. Questions concerning the release of information pertaining to deceased beneficiaries shall be referred to TRICARE Management Activity (TMA), Office of General Counsel.

4.1. ***Privacy Act Requirements***

The Privacy Act of 1974 requires agencies to:

- Publish in the ***Federal Register*** annual notice of the existence and character of any system of records from which information is retrieved by some personal identifier.
- Itemize in the public notice the “routine uses” of the records contained in a system of records, including the categories of users and the purpose of such use. No other use or disclosure of the information shall be made without the express written consent of the individual to whom the record pertains.

- Establish procedures for granting individuals access to records or information pertaining to them and for reviewing requests from individuals concerning the amendment of any records pertaining to them. A requester may ask the agency to review the agency's initial adverse determination. If the review is again adverse the agency then must advise the requester of his/her right to seek judicial review.
- Establish procedures governing the collection, safeguarding and maintenance of personal information.

4.2. *Policy Of Department Of Defense (DoD)*

The policy of DoD is to preserve the personal privacy of individuals, permitting an individual to know what records pertaining to him or her are collected, maintained, used, or disseminated in the DoD, to other individuals or entities and to have access to and have a comprehensible copy made of all or any portion of such records, in accordance with applicable laws and regulations. Concomitantly, DoD activities shall collect, maintain, use or disseminate any record of an identifiable personal nature in a manner which assures that such action is necessary and lawful; that any information collected is accurate, relevant, timely, and complete as is reasonably necessary to assure fairness to the individual, and that adequate safeguards are provided to prevent misuse or unauthorized release of such information.

4.3. *Definitions Of Key Terms*

4.3.1. *Individual*

An individual is a citizen of the United States or an alien lawfully admitted for permanent residence. This status applies only to living persons. The Act does not cover entrepreneurs by the term "individual." Thus, physicians and other sources of care, when acting in their professional business capacity, are not "individuals" under the Privacy Act. To be subject to the Act, information maintained must in fact be ***personal*** in nature, and the individual must be dealt with in a personal, not an entrepreneurial role. Minors have independent and individual rights of privacy under the Privacy Act. A legal guardian or the parent of a minor, with some exceptions, may have the same rights as the individual minor and may act on behalf of the individual. Each request submitted by a minor or a legal guardian or custodial parent of a minor should be reviewed individually and case by case judgments made. A letter from an attorney stating that he/she represents a beneficiary or provider is sufficient to authorize the agency to release information under the Privacy Act. It would be a violation of professional ethics for an attorney to indicate that he/she represents an individual when in fact that is not true. Because of this standard of professional ethics, the agency can rely on the attorney's statement of representation.

4.3.2. *Record*

A record is any item, collection, or grouping of information about an individual which is maintained (collected, used or disseminated) by TMA or a TRICARE contractor, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history, and which contains the individual's name or the identifying number, symbol, or other personal identifiers.

4.3.3. *Files Maintained by the Contractor*

Pursuant to the Privacy Act, the contractor will be managing systems of records for the agency. The specific systems of records are: DTMA 01 Health Benefits Authorization Files, DTMA 02 Medical/Dental Care and Claims Inquiry Files, and DTMA 04 Medical/Dental Claim History Files. The agency's System of Records Notices are at Addendum C to this Attachment 17.

4.3.4. *Routine Use*

The agency Routine Uses are set out at Addendum C to this Attachment 17.

4.4. *Confidentiality Of Files Subject to the Privacy Act*

The contractor shall establish and maintain procedures and controls for the purpose of assuring that the confidentiality of those files subject to the Privacy Act are maintained at all times and that information is disclosed solely and strictly in accordance with the provisions of the Privacy Act and DoD Regulation 5400.11-R.

4.5. *Collecting Information*

4.5.1. The Privacy Act requires personal information to be collected, to the greatest extent practicable, directly from the individual when the information may result in adverse determinations about an individual's rights, benefits, or privileges under Federal programs. The collection of information from third parties shall be minimized except where the nature of the information is such that there is a need to obtain it directly from a third party, or to obtain verification from a third party.

4.5.2. When obtaining information from an individual, a ***Privacy Act Statement*** shall be provided to the individual advising of the authority for soliciting the information, the principal purposes for which it will be used, the routine use to be made of it, whether furnishing the information is mandatory or voluntary and the effect on the individual for not providing the information. The appropriate Privacy Act Statement must be included in any distribution of TRICARE claim forms by the TRICARE contractor. TRICARE claim forms incorporate the Privacy Act Statement.

4.5.3. Claims received by the contractor which do not contain an indication that the claimant was aware of the Privacy Act will, nevertheless, be processed for payment. However, if additional information concerning a claim is required, the request to the individual must include a copy of the appropriate Privacy Act Statement. When information is collected by ***telephone***, a brief oral explanation of the Privacy Act shall be given to the individual.

4.6. *Access To Contractor Records Under The Privacy Act*

4.6.1. The contractor must devise and describe procedures by which an individual is permitted access to records pertaining to him or her. Upon request, an individual must be informed whether or not files subject to the Privacy Act contain a record pertaining to him or her. And, if the individual so desires, he or she shall be permitted to review such record and to be accompanied for the purpose of reviewing the record by a person of his or her choice.

Further, an individual is permitted to obtain a copy of such record in a form which is comprehensible to him or her.

4.6.2. Granting individual access to a record containing his/her personal information shall not be conditioned upon any requirement that the individual state a reason or otherwise justify the need to gain access. However, the requester shall be required to provide such information as is necessary to determine generally where and how to look for their records. The individual shall also be required to provide reasonable verification of his or her identity prior to being granted access to personal information. Custodial parents or legal guardians shall be required to verify both their identity and their relationship to a minor or a legal incompetent. In addition, since most records in the files subject to the Privacy Act relate to medical information, an individual may be required to submit a written request for access to the file.

4.6.3. In paragraphs citing the Privacy Act, the term “parent” refers to custodial parent. In general there is no absolute right of a non-custodial parent to have access to a record about a child absent a court order or consent notwithstanding that private information may be retrievable only by the Sponsor’s Social Security Number. A non-custodial parent may not generally have access to the minor child’s medical information. In some cases involving separation or divorce, it may be necessary to review the court order to determine the specific intent of the court with relation to medical issues involving a minor. A custodial parent or guardian of a minor may request notification of, or access to, medical records of the minor on behalf of the minor. A custodial parent or guardian will be granted direct access to the minor’s medical record unless it falls under the Alcohol, Drug Abuse and Mental Health Reorganization Act (ADAMHA) or if release is proscribed by the HHS Privacy Regulation and/or the DoD Health Information Privacy Regulation. If the records relate to the ADAMHA, then follow the instructions stated in paragraph 3.0.

4.6.4. Information from the files subject to the Privacy Act shall be released to authorized representatives of the individual concerned, upon written request of the individual (parent/guardian) as appropriate. If the individual concerned is mentally incompetent, insane, or deceased, the next of kin or legal representative must authorize, in writing, the release of the individual’s records. Any written authorization to release records must be incorporated in the accounting for disclosures discussed below.

4.6.5. Requests for information or records must be **acknowledged** within ten working days from the date of receipt. An individual’s request for access to records pertaining to him or her shall receive concurrent consideration both under the Privacy Act and the Freedom of Information Act, if appropriate. The requested information must be furnished within 30 working days unless good cause exists to delay furnishing the record, in which case the individual will be informed in writing within the 30 working days of the reason for delay and when it is anticipated that the information will be furnished.

4.7. ***Corrections To Records***

4.7.1. An individual is permitted by the Privacy Act to request correction of any record pertaining to him or her. Requests should be in writing and contain, as a minimum, sufficient identifying information to enable location of the record, a description of the items to be amended and the reason amendment is being requested.

4.7.2. TRICARE contractors shall implement procedures for reviewing records at the request of individuals concerned and develop and implement procedures for making corrections, if appropriate. Whenever practicable, contractors shall complete the review and advise the individual of the decision to amend the record within ten working days of receipt of the request. Otherwise, a written acknowledgment of receipt of a request for amendment must be provided within ten working days after receipt, with notification of a decision to amend the record furnished within 30 working days of receipt of the request.

4.7.3. If a contractor agrees with allowing any portion of the individual's request to amend a record, it shall amend the record accordingly. In addition, all previous recipients of the uncorrected record, including those recipients identified by a disclosure accounting as required below, shall be advised of the amendment and of the substance of the correction.

4.7.4. If the TRICARE contractor does not agree to amend the record as requested, the individual shall not be advised of the decision. Rather the individual's request for amending the record, together with a copy of the record and the contractor's written explanation of the reason(s) for not amending the record, shall be sent to TMA, ATTENTION: Office of General Counsel, within ten working days of the decision as prescribed in paragraph 5.8.2., above. Written acknowledgment of receipt of the request for amendment will be provided to the individual.

4.8. *Accounting For Disclosures*

4.8.1. Except for routine disclosures, no record contained in the files subject to the Privacy Act shall be disclosed to any person or to any agency outside DoD, without the prior written consent or request, of the individual to whom the record pertains. Contractors shall disclose records contained in the files subject to the Privacy Act to officials and employees of DoD and to officials and employees of TRICARE contractors who have a need for the record in the performance of their duties, provided the use is compatible with the purpose for which the record is maintained. The routine use of information contained in the files subject to the Privacy Act has been set forth in [paragraph 4.3.4.](#), above. Certain other routine uses have been authorized by the Privacy Act, which, in summary, include disclosures to the Bureau of the Census, disclosures for statistical research and reporting, disclosures to the Congress, disclosures to the General Accounting Office, and disclosures pursuant to court order. Disclosures to persons or agencies which would not amount to a routine use as set forth above will be made by the contractor only with the written authorization of TMA.

4.8.2. Except for disclosures made to officials and employees of DoD and TRICARE contractors as described above, the Privacy Act requires an accurate accounting for all other disclosures of personal data. Disclosures which must be accounted for under the Privacy Act are of two types, routine and nonroutine. Under either type, a record must be kept of the name and address of the person and, if appropriate, the agency to whom the disclosure is made, the date, nature, and purpose of each disclosure. In addition, accounting for nonroutine disclosures shall also contain the consent of the individual to whom the record pertains. Nonroutine disclosures include all disclosures made outside DoD and TRICARE contractors which are not otherwise identified as routine. The accounting need not include a notation on each separate document of every disclosure of a particular record, provided the contractor can construct from its system the required accounting information when required by the individual, when necessary to inform previous recipients of any amended records, or when providing the justification or basis upon which the disclosure was made (i.e., an

individual to whom a record pertains is entitled, upon request, to all information on the accounting of disclosures, except disclosures made for law enforcement purposes). Accounting records for routine and nonroutine disclosures must be retained for at least five (5) years after the last disclosure or the life of the basic record, whichever is longer.

4.9. *Violations*

4.9.1. In the event of violations of the Privacy Act, a civil action may be brought against DoD when a violation concerns the design, development or operation of a system of records on individuals to accomplish an agency function. Criminal penalties may be imposed upon the officers and employees of DoD when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Privacy Act, when a TRICARE contractor maintains the files subject to the Privacy Act to accomplish a TRICARE function, the contractor and any employee of the contractor will be viewed as employees of the Department of Defense.

4.9.2. Administrative and physical safeguards to protect files subject to the Privacy Act from unauthorized or unintentional access, disclosure, modification, or destruction, must be employed by contractors. All persons whose official duties require access to or processing and maintenance of personal information should be advised of the proper safeguarding and use of such information. In addition, all employees should be aware of their responsibilities under the Privacy Act. Any officer or employee of the contractor who:

- Willfully discloses individually identifiable information from the files subject to the Privacy Act, in violation of the Privacy Act, shall be guilty of a misdemeanor and fined not more than \$5,000; or,
- Willfully maintains through performance of the TRICARE contract, a system of records not included in the files subject to the Privacy Act shall be guilty of a misdemeanor and fined not more than \$5,000.

4.10. *General Correspondence*

In responding to general correspondence, the reply should be sent to the beneficiary regardless of who made the inquiry. If a spouse or other family member makes an inquiry concerning a beneficiary's claim, etc., the inquiry should not be returned to the spouse or family member unanswered. Rather, a reply should be addressed to the beneficiary with an explanation that under the Privacy Act the reply could not be made to the spouse or family member who made the inquiry. Also, if an inquiry is made by the beneficiary, including an eligible family member regardless of age, the reply should be addressed to the beneficiary, not the beneficiary's spouse (service member) or parent. The only exceptions are when a parent writes on behalf of a minor child (under 18 years of age) or when a guardian writes on behalf of a physically or mentally incompetent beneficiary. However, in responding to a parent of a minor or guardian of an incompetent, the Privacy Act precludes disclosure of sensitive information (e.g., abortion, alcohol and substance abuse, venereal disease, etc.) or information which, if released, would have an adverse effect on the beneficiary. In such cases, the procedures outlined in [paragraph 4.6.](#) shall be followed. When a reply is made to the beneficiary, the reply should be fully responsive to the inquiry (reasonable charge, etc.) whether or not the query was originally made by the beneficiary. Copies of the response shall NOT be sent to any family member, spouse or other person who may have made the inquiry.

4.11. *Release Of Information To Members Of Congress*

4.11.1. In accordance with the DoD policy of making maximum information concerning its operations and activities available to both Government officials and to the public in general, TMA and TRICARE contractors will answer constituent's letters to Members of Congress as fully as possible.

4.11.2. Information requested by Members of the Congress for the constituents shall be handled in the same manner as if the beneficiary had written directly to TMA or the TRICARE contractor. If it develops that the information cannot be released, the Member of the Congress requesting the information shall be advised promptly of that fact and of the reasons for the determination.

4.11.3. Responding to a Congressional office from the record of an individual in response to an inquiry from the Congressional office at the request of that individual (beneficiary), has been established as a routine use of the files subject to the Privacy Act. However, in those cases in which the Congressional inquiry indicates that the request is being made on behalf of a person other than the individual whose record is to be disclosed (e.g., a spouse or family member 18 years of age or older), the contractor shall advise the Congressional office that written consent of the beneficiary is required. A verbal statement from a Congressional staff member that written consent was obtained from the individual to whom the record pertains or from the parent in the case of a beneficiary under age 18, is sufficient for the contractor to release the requested information. The contractor shall not contact the beneficiary unless the Congressional office requests that it be done. Similarly, a record of an individual which would not be releasable directly to the individual (e.g., a medical record which would have an adverse effect on the individual) cannot be released directly to the Congressional office making the inquiry on behalf of the individual. Instead, the Congressional office shall be advised of the procedure for release of such record. Of course, in those cases where a contractor can respond to a Congressional request for assistance on behalf of an individual, without disclosing personal information which would fall under the Privacy Act, the contractor shall comply.

4.11.4. Replies to all Congressional inquiries and requests shall be completely responsive and handled as expeditiously as possible. Should it become evident that a response to a request cannot be made within 15 working days, an interim reply will be sent. The interim reply will indicate the anticipated date of completion and the steps being taken to obtain the information requested.

4.12. *Disclosure Within The Agency*

4.12.1. The Privacy Act prohibits the disclosure from TRICARE records of information concerning a beneficiary without the beneficiary's written consent except for "routine uses" as directed by the agency or disclosures made to officials and employees of the Department of Defense (including TRICARE contractors) who have a need for the record in the performance of their duties, provided the use is compatible with the purpose for which the record is maintained.

4.12.2. Paragraph 4.3.4., defines "routine uses" with respect to disclosure of TRICARE records. TRICARE contractors should be aware that TRICARE Health Benefit Advisors (HBAs) and Uniformed Services claims officers are employees of the Department of Defense

authorized to receive information from TRICARE records if they have a need for the information in the performance of their duties. A TRICARE HBA who is assisting a beneficiary may receive TRICARE information pertaining to that beneficiary. If there is some reason to question release of the information, a request can be made for the beneficiary's written consent. The restriction on disclosure of only that information directly releasable to the beneficiary also applies to the HBA.

4.13. Appeals

Guidance for handling general correspondence also applies to appeal cases, except that a designated "representative" (as defined in [32 CFR 199.10](#)), may be communicated with on the same basis as the individual beneficiary. However, unless the representative is an attorney, a written statement from the beneficiary appointing the representative is required.

5.0. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

5.1. Title VI of the Civil Rights Act of 1964 provides that no person shall, on the grounds of race, color or national origin, be excluded from participation under any program or activity receiving Federal financial assistance. All Federal departments and agencies extending such assistance are required to ensure that institutions or facilities participating in these Federally-assisted programs do not discriminate against beneficiaries or employees on the grounds of race, color or national origin. Hospitals, skilled nursing facilities, residential treatment centers and special treatment facilities determined to be authorized providers under TRICARE are subject to the provisions of Title VI.

5.2. Investigating complaints of noncompliance with Title VI is a function of the Office of Civil Rights of the Department of Health and Human Services (DHHS). Any discrimination complaints involving Title VI that are received by contractors should be forwarded to the Office of Civil Rights, DHHS, North Building, 330 Independence Avenue, S.W., Washington, DC, 20003. A copy of the material sent to the Office of Civil Rights must also be sent to TMA, Office of General Counsel, 16401 East Centretech Parkway, Aurora, Colorado, 80011-9066.

6.0. SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 as amended, states that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. All Federal agencies extending such assistance are required to ensure that both individual professional providers and institutions participating in these Federally-assisted programs do not discriminate against beneficiaries or employees on grounds of a handicapping condition. Any discrimination complaints involving Section 504 that are received by contractors shall be forwarded to TMA within two working days of receipt.

SECTION 2

PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

1.0. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

The contractor shall comply with the above Act and Regulation. This Attachment 17 emphasizes those provisions applicable to the contractor's operations relative to the Act's privacy provisions implemented through the Department of Health and Human Services (HHS) Privacy Regulation (45 CFR Parts 160 and 164) and the DoD Health Information Privacy Regulation (DoD 6025.18-R). For purposes of HIPAA, TRICARE is a health plan and a covered entity. As a business associate of the TRICARE Health Plan, the contractor and its subcontractors shall comply with the HHS Privacy Regulation and the DoD Health Information Privacy Regulation. Network pharmacies are not considered business associates, but must comply with the provisions of the HHS Privacy Regulation as covered entities.

1.1. HHS Privacy Regulation Relationship To Other Federal And State Laws And Federal Regulations

The Privacy Act of 1974 and the DoD Privacy Regulation will be interpreted in a manner that will make them compatible with the HHS Privacy Regulation and the DoD Health Information Privacy Regulation. The following rules of interpretation apply. If a regulation or law mandates a particular action, that regulation or law will take precedence over a regulation that makes a particular action discretionary. Further, the more specific regulation or law will take precedence over the more general regulation or law. Where a determination must be made as to the applicability of a privacy requirement, the general rule is that the more restrictive requirement will be applied.

The preamble of the HHS Privacy Regulation states, "When a covered entity is faced with a question as to whether the privacy regulation would prohibit the disclosure of protected health information that it seeks to disclose pursuant to a federal law, the covered entity should determine if the disclosure is required by that law. In other words, it must determine if the disclosure is mandatory rather than merely permissible. If it is mandatory, a covered entity may disclose the protected health information pursuant to 45 CFR §164.512(a), which permits covered entities to disclose protected health information without an authorization when the disclosure is required by law. If the disclosure is not required (but only permitted) by the federal law, the covered entity must determine if the disclosure comes within one of the other permissible disclosures. If the disclosure does not come within one of the provisions for permissible disclosures, the covered entity must obtain an authorization from the individual who is the subject of the information or de-identify the information before disclosing it. If another federal law prohibits a covered entity from using or disclosing information that is also protected health information, but the privacy regulation permits the use or disclosure, a covered entity will need to comply with the other federal law and not use or disclose the information."

1.1.1. *The Privacy Act Of 1974 And The DoD HIPAA Privacy Regulation*

The Military Health System (MHS), TRICARE, and its contractors are subject to the Privacy Act of 1974 and the DoD Health Information Privacy Regulation. The Privacy Act and the DoD Health Information Privacy Regulation permits the disclosure of information for reasons compatible with the purposes for which the information was collected. These uses and conditions or reasons for disclosures of information, otherwise referred to as “routine uses,” must be identified and published in the Federal Register. Routine uses are defined by the agency and are, by definition, discretionary. Where a routine use conflicts with a mandatory requirement under the HHS Privacy Regulation, the routine use must be interpreted or applied in a manner that complies with the HHS Privacy Regulation requirement.

1.1.2. *Freedom Of Information Act (FOIA)*

The FOIA, 5 U.S.C. 552, requires the federal government to disclose several types of information upon the request of any person. Uses and disclosures required by FOIA fall under §164.512(a) of the HHS Privacy Regulation which allows for uses and disclosures required by law. The HHS Privacy Regulation does not change the established policies and procedures for the contractor towards FOIA requests.

1.1.3. *State Laws*

1.1.3.1. The general rule set forth in the HHS Privacy Regulation states that any standard, requirement, or implementation guideline adopted in the privacy rule that is contrary to state law will preempt that state law unless one of the privacy rule exceptions apply. In other words, federal privacy regulations adopted pursuant to the HHS Privacy Regulation set the floor of minimal privacy requirements that must be met by covered entities in all states. States are permitted to enforce requirements that exceed the federal minimum.

1.1.3.2. Generally, state laws pertaining to health care are not applicable to health care programs and activities of the DoD. However, there are circumstances when DoD procedures require DoD components (including contractors) to follow state law. In those cases DoD components will follow state law. For example, state law (where treatment is provided) will be applied to cases involving the disclosure of protected health information (PHI) about a minor to authorized persons (i.e., parent, guardian, etc.)

1.1.3.2.1. Paragraph C2.4. of the DoD Health Information Privacy Regulation provides guidance regarding the preemption of state law.

“In general, the HHS Privacy Regulation establishes rules, exceptions, and procedures governing the determination of the preemption of state law by the HHS regulation. As a general rule, a standard, requirement, or implementation specification adopted under the HHS regulation that is contrary to a provision of State law preempts the provision of State law. Exceptions to this general rule include the circumstance in which the provision of State law relates to the privacy of health information and is more stringent than a standard, requirement, or implementation specification adopted under the HHS regulation. Exceptions also include circumstances in which the provision of State law, including State procedures established under such law, as applicable, provides for the

reporting of disease or injury, child or domestic abuse or neglect, birth, or death, or for the conduct of public health surveillance, investigation, or intervention.”

1.1.3.2.2. Paragraph C2.4.2. of the DoD Health Information Privacy Regulation also provides this guidance:

“As a general rule, State laws pertaining to health care are not applicable to health care programs and activities of the Department of Defense. However, there are some matters concerning which Department of Defense rules and procedures call for DoD components to follow State law.” For example, “In cases involving disclosure of protected health information about a minor to a parent, guardian, or person acting in loco parentis of such minor, the State law of the state where the treatment is provided will be applied. In any other case, in which there is a conflict between this regulation [DoD Health Information Privacy Regulation] and State law, this regulation [DoD HIPAA Privacy Regulation] will apply, unless: DoD rules, procedures, or other applicable policy call for DoD components to follow State law with respect to the matter at issue.

2.0. BACKGROUND AND APPLICABILITY

2.1. The contractor shall comply with the Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information regulation associated with the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Department of Health and Human Services (HHS) published the final privacy regulation on August 14, 2002, which amended 45 CFR Subtitle A, Subchapter 3, Part 160 and added Part 164, Subpart E, which will be referred to here as the “Final Rule”, or the “HHS Privacy Regulation,” or “Regulation.” The HHS Privacy Regulation compliance date is April 14, 2003.

2.2. The HHS Privacy Regulation applies to health plans, health care clearinghouses, and health care providers who transmit health information in electronic form in connection with any transaction referred to in 1173(a)(1) of the Social Security Act (covered transactions). The Privacy Regulation applies to health plans, health care clearinghouses, and health care providers who use and disclose protected health information. The Regulation refers to health plans, health care clearinghouses, and health care providers as “covered entities”. In the following sections, TRICARE is referred to as the covered entity. The contractors are “business associates” of TRICARE. The Regulation specifically names the health care program for active duty military personnel under Title 10 of the United States Code and the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) as defined in 10 U.S.C. 1072(4), as health plans.

2.3. A reference in this Attachment 17 to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required. Any ambiguity in this Attachment 17 shall be resolved in favor of a meaning that permits the government to comply with the Privacy Rule.

3.0. *CONTRACTOR RESPONSIBILITIES*

3.1. *Personnel*

The contractor shall designate a privacy official for the implementation and compliance of the HHS Privacy Regulation and the DoD Health Information Privacy Regulation. The responsibilities of this position include, as a minimum:

3.1.1. Oversee all contract activities related to the development, implementation, maintenance of, and adherence to the contractor's policies and procedures covering the privacy of, and access to protected health information. In addition, this position ensures compliance with federal and state laws, HIPAA, DoD and TRICARE regulations and the organization's information privacy practices.

3.1.2. Ensure accomplishment of the following responsibilities:

- Establish, implement and amend policies and procedures with respect to protected health information (PHI) that are designed to ensure compliance with federal and state laws, DoD Health Information Privacy Regulation, and HHS Privacy Regulation and TMA requirements.
- Maintain current knowledge of applicable federal and state privacy laws.
- Monitor and where feasible adopt industry best practices of PHI technologies and management.
- Serve as a liaison to the COR and TMA.
- Cooperate with TMA, HHS Office of Civil Rights, other legal authorities, and organizational personnel in any compliance reviews or investigations.
- Perform initial and periodic privacy risk assessments and conduct related ongoing compliance monitoring activities as applicable.
- Establish a process for receiving, documenting, tracking, investigating, and taking action on all complaints concerning the organization's privacy policies and procedures in coordination and collaboration with other similar functions.
- Receive complaints and provide information about the organization's privacy practices. Provide the COR with complaint activity in the agreed upon format.
- Mitigate to the extent practicable, any harmful effects known to the organization from the disclosure of PHI in violation of the organization's policies and procedures or its obligation under the privacy regulation.
- Ensure that a written or electronic copy is maintained for the retention period (six years plus current year) of:
 - all policies and procedures (in addition, all policies and procedures must be retained for six years, three months from the date the contract is closed),

- communications required to be in writing and,
- documentation of actions or designations that are required by the regulation to be documented.
- Oversee, direct, and ensure delivery of initial privacy training and orientation to all employees, volunteers, clinical staff, business associates, and other appropriate third parties and record results in compliance with contractor training documentation policies. Ensure periodic refresher training is conducted in order to maintain workforce awareness and to introduce any changes to privacy policies.
- Initiate, facilitate and promote activities to foster information privacy awareness within the organization and related entities.
- Collaborate with other departments and subcontractors to continue to ensure appropriate administrative, technical, physical and security safeguards are in place to protect the privacy of PHI.
- Work cooperatively with all applicable organizational units and subcontractors in overseeing patient rights to inspect, amend, and restrict access to protected health information when appropriate.

3.2. *Privacy Risk Assessments*

3.2.1. The contractor shall conduct initial and annual information privacy risk assessments and related ongoing compliance monitoring activities. The initial risk assessment should compare current practices against the HHS Privacy Regulation, DoD Health Information Privacy Regulation and TMA Privacy Program requirements. The contractor shall develop an action plan from identified and prioritized findings to achieve compliance.

3.2.2. The contractor shall submit the initial privacy risk assessment and the accompanying action plan at least 120 calendar days prior to the start of services. The contractor shall forward their initial assessment and action plan to the Contracting Officer (CO), with copies to the Contracting Officer Representative (COR), and the TMA Privacy Officer.

3.2.3. TMA Privacy Officer, in coordination with the COR, will have primary monitoring and enforcement responsibilities.

3.3. *Tracking And Accounting*

3.3.1. Under the Minimum Necessary Rule, the contractor shall identify and document those persons or classes of persons, as appropriate, in its workforce who require access to protected health information to carry out their duties. For each person or class of persons identified, the contractor shall document the category or categories of protected health information needed and any conditions appropriate to such access.

3.3.2. The contractor shall identify and document the circumstances when the entire medical record is required. For example, if the entire record is needed to complete a review, claims or appeals/hearings function, the contractor shall document the circumstances and justification.

3.3.3. The contractor shall forward privacy requests for nonroutine or nonrecurring disclosures to the COR within three working days of receipt of the request. Nonroutine or nonrecurring disclosures are any disclosures outside the current routine uses published in the Federal Register under the Privacy Act of 1974. Privacy requests for protected health information must be made in writing. The COR, in consultation with the contractor, will forward the request and recommendation within 10 working days of receipt of the request to the TMA Privacy Officer. The TMA Privacy Officer will make the final determination as to what information is reasonably necessary to accomplish the purpose for which the disclosure or request is sought. The TMA Privacy Officer will notify the COR, with a copy to the contractor, as to what information may be released to the requestor.

3.3.4. The contractor shall document privacy complaints received, and retain a case file of all documentation associated with a complaint. These files shall be retained in accordance with Section J, Attachment 13, Records Management.

3.3.5. If the contractor grants an individual's request for access to their protected health information, they shall inform the individual of the acceptance of the request and provide the access requested no later than 30 calendar days after receipt of the request. If the contractor is unable to take the requested action within 30 calendar days, they may extend the time for no more than an additional 30 days provided that they notify the individual in writing of the delay and the expected date of completion. Only one 30 calendar day extension may be allowed under the HHS Privacy Regulation. The contractor shall document receipt of all access requests using a date stamp and maintain an index to record pertinent information and actions. If the contractor denies access to the protected health information or the record, they shall forward the request within seven working days from receipt to the COR. The contractors shall notify the beneficiary within three working days that their request was forwarded to the COR. The COR shall review the request and make a determination within 20 calendar days (50 calendar days for justified delays) of the request. The COR will notify the individual, with a copy to the contractor, of any approved or denied access determinations and the reason for any denial. The individual may appeal the denial determination to the TMA Privacy Officer. In the event of an appeal, the TMA Privacy Officer will notify the individual of the determination, with copies sent to the COR and the contractor.

3.3.6. The contractor shall charge only reproduction costs and fees will be waived when those costs are under \$30. There will be no charge when the copying is for the contractor's or the TRICARE health plan's convenience.

3.3.7. The contractor shall provide a written accounting of disclosures as allowed under the DoD HIPAA Privacy Regulation and the DoD Health Information Privacy Regulation upon written request from the individual and to the government in time and manner designated by the government. The contractor shall use existing disclosure accounting processes in place for the Privacy Act of 1974 as identified in Section 1, paragraph 4 of this Attachment 17. The HHS Privacy Regulation requires an accounting of disclosures for the previous 6 years from the date of the request.

3.3.8. Requesting An Amendment

The contractor shall document the title(s) of the person(s) or office(s) responsible for receiving and processing requests for amendments by individuals.

3.3.8.1. If an individual requests amendment to their protected health information (PHI) under the Privacy Act of 1974, the contractor shall ensure compliance with the Privacy Act of 1974.

3.3.8.2. If an individual requests amendment to their PHI under the HHS Privacy Regulation, the request shall be processed in accordance with that regulation.

3.3.8.3. All amendment requests are submitted in writing. The contractor shall amend the PHI or record, within 60 calendar days of receipt of the request. The contractor shall provide a written reason for any extension beyond 60 calendar days from the date of the request and the date of completion to the individual who made the request with a courtesy copy to the COR. Only one 30-calendar day extension may be allowed under the HHS Privacy Regulation. The contractor shall document receipt of all amendment requests using a date stamp and maintain an index to record pertinent information and actions. If the contractor decides they will not amend the PHI or the record, they shall forward the request to the COR within 20 calendar days from receipt of the request. The COR shall review the request and make a determination within 45 calendar days (80 days for justified delays) from the receipt of the request. The COR will notify the individual, with a copy to the contractor, of any approved or denied amendment determinations and the reason for any denial. The individual may appeal the denial determination to the TMA Privacy Officer. Whoever makes the decision on whether to amend or not shall be the responsible agent for communicating with the beneficiary regarding their amendment request and will furnish copies of the determination to the appropriate parties.

3.3.9. The contractor shall permit individuals to request and must accommodate reasonable requests by individuals to receive communications of protected health information from the contractor by alternative means or at alternative locations. Requests for confidential communications shall be addressed to the contractor. The contractor shall maintain a log of all requests for alternative communications to include a control number, name and address of individual, date request received, date request was completed, and the requested action.

3.4. Referrals To TRICARE Management Activity

3.4.1. The contractor shall forward a monthly report to the COR with copies to the TMA Privacy Officer and the CO, which identifies the beneficiary's name, sponsor's social security number, nature of the complaint, the steps taken to resolve the complaint, the date of the initial complaint, and the expected date of resolution or the date resolved. This report shall be sent no later than the 10th calendar day of the month following the month being reported. The contractor shall use the sample report at Addendum B, Figure B-1.

3.4.2. The contractor shall approve or disapprove the restriction requests on protected health information within seven working days of receiving the request. If the request is approved the contractor shall notify the requestor and the COR and shall implement the provision of the restriction within seven working days of the decision. If the request is denied

the contractor shall notify the requestor of the reason for denial within seven working days of the decision. Termination of restriction requests by individuals must be in writing.

3.4.3. Requests received by the contractor for a restriction placed on communications by individuals must be in writing. The contractor shall accommodate reasonable requests by individuals to receive communications of protected health information to alternative locations or means if the individual clearly states the disclosure of all or part of their protected health information could endanger them. For example, an individual requests that the explanation of benefits about particular services be sent to their work place rather than a home address because the individual is concerned that a member of their household might read the explanation of benefits and become abusive towards them.

3.5. ***Authorizations***

3.5.1. The contractor shall use authorizations conforming to the core elements identified in the HHS Privacy Regulation at 45 CFR §164.508(c), as necessary. The contractor shall obtain a signed authorization for any use and disclosure consistent with the DoD Health Information Privacy Regulation Chapter 5 and the HHS Privacy Regulation 45 CFR §164.508(a). When an authorization is obtained from an individual, a copy shall be furnished to them. The contractor shall allow individuals to revoke their authorization.

3.5.2. If the contractor requires the psychotherapy notes of an individual, the contractor shall obtain a signed authorization from that individual. Under the HHS Privacy Regulation, the contractor shall not release the psychotherapy notes to the individual who is the subject of the notes. However, under the Privacy Act of 1974 case law, the individual may have access to all of their health information, including their psychotherapy notes. Due to such complexities, the contractor shall refer all determinations for release of psychotherapy notes to the TMA Office of General Counsel.

3.5.3. The contractor shall ensure special report requests using or disclosing individuals' protected health information comply with the HHS Privacy Regulation definitions of treatment, payment or health care operations. If not, an authorization from the beneficiary is required.

3.5.4. HIPAA authorizations acquired or used by the contractor in the development and processing of claims or required for other contractor functions, such as fraud and abuse, shall be stored and maintained with the appropriate record categories described in Section J, Attachment 13, Records Management.

3.6. ***Notice Of Privacy Practices***

3.6.1. The contractor shall annually notify individuals, who are normally mailed educational literature on TRICARE, of the availability of the Notice of Privacy Practices and how to obtain it. This notification shall occur only through beneficiary education as permitted within existing contract limitations and requirements. No additional or special marketing or beneficiary education campaigns are required.

3.6.2. The contractor shall provide a copy of the notice to TRICARE beneficiaries upon request. TMA will maintain a current notice on the TRICARE web site at <http://www.tricare.osd.mil>. The contractor shall maintain a link to the TMA Notice of

Privacy Practices on their web site. The TMA Privacy Officer is responsible for maintenance of the notice.

3.7. *Business Associate Contracts*

TMA considers the contract between TMA and the contractor as a business associate. Contract clauses at Section I.97 and I.98 and Section 3 of this Attachment 17, which is incorporated into the contract by reference, satisfies the requirements of 45 CFR §164.504(e).

3.7.1. The contractors shall ensure that any subcontractors or agents to whom it provides protected health information received from, or created or received by the contractor on behalf of the TRICARE health plan, agrees to the same restrictions and conditions that apply to the contractor with respect to such information.

3.7.2. The contractor shall use and disclose protected health information for the proper management and administration and to carry out the legal responsibilities of the contractor. The contractor may disclose the information received by them in this capacity if:

- The disclosure is required by law; or
- The contractor obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person; and
- The person notifies the contractor of any instances of which it is aware when the confidentiality of the information has been breached.

3.7.3. The contractor shall not use or further disclose the protected health information other than as permitted or required by this section, or as required by the HHS Privacy Regulation, DoD Health Information Privacy Regulation, or law.

3.7.4. The contractor shall report to TMA through the COR any use or disclosure of the information not provided for by its contract of which it becomes aware.

3.7.5. The contractor shall make available protected health information in accordance with the HHS Privacy Regulation, 45 CFR §164.524, DoD Health Information Privacy Regulation, Chapter 11 and TMA Privacy requirements.

3.7.6. The contractor shall make available information required to provide an accounting of disclosures in accordance with the HHS Privacy Regulation, 45 CFR §164.528, DoD Health Information Privacy Regulation, Chapter 13 and TMA Privacy requirements.

3.7.7. The contractor agrees to provide access, at the request of the government, and in the time and manner designated by the government to Protected Health Information in a Designated Record Set, to the government or, as directed by the government, to an individual in order to meet the requirements under 45 CFR 164.524. The contractor shall make its internal practices, books, and records relating to the use and disclosure of protected health information received from, created, or received by the contractor on behalf of the TRICARE health plan, available to TMA, or at the request of TMA to the Secretary of HHS,

for purpose of the Secretary determining the TRICARE health plan's compliance with the HHS HIPAA Privacy Regulation.

3.7.8. The contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to the contractor of a use or disclosure of protected health information by the contractor in violation of the requirements of this agreement.

3.7.9. The contractor agrees to provide access, at the request of TMA, and in the time and manner designated by TMA, to protected health information in a designated record set, to TMA or as directed by TMA, to an individual in order to meet the requirements under the HHS Privacy Regulation 45 CFR §164.524 and the DoD Health Information Privacy Regulation, Chapter 11.

3.7.10. The contractor agrees to make any amendment(s) to protected health information in a designated record set that TMA directs or agrees to pursuant to the HHS Privacy Regulation, 45 CFR §164.526 or the DoD Health Information Privacy Regulation, Chapter 12, at the request of TMA or an individual, and in the time and manner designated by TMA.

3.8. ***Documentation***

3.8.1. The contractor shall document, implement and maintain policies and procedures required to comply with HHS Privacy Regulation and the DoD Health Information Privacy Regulation. These policies and procedures shall be made available upon government request. The contractor shall develop or update their policies and procedures to include, for example, the following:

- Minimum Necessary Rule.
- Verifying identity of persons seeking disclosure.
- Identify circumstances when the entire medical record is needed.
- Disclosure accounting documentation.
- All privacy complaints received and their disposition.
- To cooperate and coordinate with HHS Secretary and Office of Civil Rights (OCR) when investigating privacy violations.
- The name and title of the privacy official and contact person or office who is responsible for receiving complaints and requests for access and amendments by individuals.
- Training requirements.
- Sanctions imposed against non-complying workforce members.
- Whistle-blower provisions.

- Personal representatives including deceased individuals and abuse, neglect and endangerment situations.
- Providing an individual access to their protected health information, except for those instances identified in the HHS Privacy Regulation, §164.524.
- Providing an individual the right to request restrictions of uses and disclosures of their protected health information to carry out treatment, payment, and health care operations; and disclosures to family and friends involved in the patient's care. All restriction requests must be submitted in writing.
- Restriction terminations.
- Providing individuals the right to receive confidential communications.
- Providing individuals the right to request amendment of protected health information.
- Performing initial and periodic information privacy risk assessments and conducting related ongoing compliance monitoring activities, as applicable.
- Safeguarding protected health information from intentional or unintentional misuse.
- Authorizations, including revocation procedures.

3.8.2. The contractor shall retain all documentation, files, and records related to protected health information in accordance with Section J, Attachment 13, Records Management.

4.0. ***DATA AGGREGATION***

The government shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the government, except for providing Data Aggregation services to the government and for management and administrative activities of the contractor as otherwise permitted by this Attachment 17.

5.0. ***TERMINATION***

5.1. A breach by the contractor of this Attachment 17 may subject the contractor to termination under any applicable default or termination provision of this contract.

5.2. ***Termination Records Management***

In the event of termination, the records subject to this Attachment 17 shall be processed in accordance with the records management requirements in Section C of this contract.

HIPAA DEFINITIONS

BUSINESS ASSOCIATE: The Standards for Privacy of Individually Identifiable Health Information Final Rule defines “Business Associate” as follows:

“(1) Except as provided in paragraph (2) of this definition, **business associate** means, with respect to a covered entity, a person who:

(i) On behalf of such covered entity or of an organized health care arrangement (as defined in §164.501 of this subchapter) in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of:

(A) A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or

(B) Any other function or activity regulated by this subchapter; or

(ii) Provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation (as defined in §164.501 of this subchapter), management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized health care arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement to the person.

(2) A covered entity participating in an organized health care arrangement that performs a function or activity as described in paragraph (1)(i) of this definition for or on behalf of such organized health care arrangement, or that provides a service as described in paragraph (1)(ii) of this definition to or for such organized health care arrangement, does not, simply through the performance of such function or activity or the provision of such service, become a business associate of other covered entities participating in such organized health care arrangement.

(3) A covered entity may be a business associate of another covered entity.”

CODE SET: The Transaction and Code Sets Regulation defines “Code Set” as “any set of codes used to encode data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes. A code set includes the codes and descriptors of the codes.”

CODE SET MAINTAINING ORGANIZATION: The Transaction and Code Sets Regulation defines “Code Set Maintaining Organization” as “an organization that creates and maintains the code sets adopted by the Secretary (HHS) for use in the transactions for which standards are adopted in this part.”

CORRECTIONAL INSTITUTION: Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial. The term “correctional institution” includes military confinement facilities, but does not include internment facilities for enemy prisoners of war, retained personnel, civilian detainees and other detainees provided under the provisions of DoD Directive 2310.1 (reference (b)).

COVERED ENTITY: The Transaction and Code Sets Regulation and the Standards for Privacy of Individually Identifiable Health Information Regulation defines “Covered Entity” as follows:

“Covered entity means one of the following:

- (1) A health plan.
- (2) A health care clearinghouse.
- (3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter. The DoD Health Information Privacy Regulation adds: “In the case of a health plan administered by the Department of Defense, the covered entity is the DoD Component (or subcomponent) that functions as the administrator of the health plan...To the extent this Regulation prescribes duties to be performed by covered entities, the term refers only to DoD covered entities. Not all health care providers affiliated with the Armed Forces are covered entities; among those who are not, are Military Entrance Processing Stations (MEPS) and Reserve units practicing outside of MTFs who do not engage in electronic transactions covered by the regulation.”

COVERED FUNCTIONS: The DoD Health Information Privacy Regulation defines “Covered Functions” as “Those functions of a covered entity the performance of which makes the entity a health plan or health care provider.”

DATA AGGREGATION: The Privacy Regulation defines “Data Aggregation” as follows: “with respect to protected health information created or received by a business associate in its capacity as the business associate of a covered entity, the combining of such protected health information by the business associate with the protected health information received by the business associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.”

DATA CONDITION: The Transaction and Code Sets Regulation defines “Data Condition” as “the rule that describes the circumstances under which a covered entity must use a particular data element or segment.”

DATA CONTENT: The Transaction and Code Sets Regulation defines “Data Content” as “all the data elements and code sets inherent to a transaction, and not related to the format of the transaction. Data elements that are related to the format are not data content.”

DATA ELEMENT: The Transaction and Code Sets Regulation defines “Data Element” as “the smallest named unit of information in a transaction.”

DATA SET: The Transaction and Code Sets Regulation defines “Data Set” as “a semantically meaningful unit of information exchanged between two parties to a transaction.”

DE-IDENTIFIED DATA: The Privacy Regulation identifies the following requirements in relationship to “De-Identified Data” as “A covered entity may determine that health information is not individually identifiable health information only if:

- (1) A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:

 - (i) Applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information; and
 - (ii) Documents the methods and results of the analysis that justify such determination; or
- (2) The following identifiers of the individual or of relatives, employers, or household members of the individual, are removed:

 - (i) Names;
 - (ii) All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:

 - (A) The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20, 000 people; and
 - (B) The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
 - (iii) All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;

- (iv) Telephone numbers;
 - (v) Fax numbers;
 - (vi) Electronic mail addresses;
 - (vii) Social Security numbers;
 - (viii) Medical record numbers;
 - (ix) Health plan beneficiary numbers;
 - (x) Account numbers;
 - (xi) Certificate/license numbers;
 - (xii) Vehicle identifiers and serial numbers, including license plate numbers;
 - (xiii) Device identifiers and serial numbers;
 - (xiv) Web Universal Resource Locators (URLs);
 - (xv) Internet Protocol (IP) address numbers;
 - (xvi) Biometric identifiers, including finger and voice prints;
 - (xvii) Full face photographic images and any comparable images; and
 - (xviii) Any other unique identifying number, characteristic, or code; and
- (3) The covered entity does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information.

DESCRIPTOR: The Transaction and Code Sets Regulation defines “Descriptor” as “the text defining a code.”

DESIGNATED RECORD SET: The Privacy Regulation defines “Designated Record Set” as the following:

- (1) A group of records maintained by or for a covered entity that is:
 - (i) The medical records and billing records about individuals maintained by or for a covered health care provider;
 - (ii) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - (iii) Used, in whole or in part, by or for the covered entity to make decisions about individuals.

(2) For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.

DESIGNATED STANDARD MAINTENANCE ORGANIZATION (DMSO): The Transaction and Code Sets Regulation defines “Designated Standard Maintenance Organization” as “an organization designated by the Secretary (HHS) under §162.910(a).”

DIRECT DATA ENTRY: The Transaction and Code Sets Regulation defines “Direct Data Entry” as “the direct entry of data (for example, using dumb terminals or web browsers) that is immediately transmitted into a health plan’s computer.”

DIRECT TREATMENT RELATIONSHIP: The Privacy Regulation defines “Direct Treatment Relationship” as “a treatment relationship between an individual and a health care provider that is not an indirect treatment relationship.”

DISCLOSURE: The Privacy Regulation defines “Disclosure” as “the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.”

ELECTRONIC MEDIA: The Transaction and Code Sets Regulation defines “Electronic Media” as “the mode of electronic transmission. It includes the Internet (wide-open), Extranet (using Internet technology to link a business with information only accessible to collaborating parties), leased lines, dial-up lines, private networks, and those transmissions that are physically moved from one location to another using magnetic tape, disk, or compact disk media.”

EMPLOYMENT RECORDS: The DoD Health Information Privacy Regulation defines “Employment Records” as “Records that include health information and that:

- (1) Are maintained by a component of the Department of Defense or other entity subject to this Regulation;
- (2) Are about an individual who is (or seeks or sought to become) a member of the uniformed services, employee of the United States Government, employee of a Department of Defense contractor, or person with a comparable relationship to the Department of Defense; and
- (3) Are not maintained in connection with carrying out any covered function under this Regulation.”

FORMAT: The Transaction and Code Sets Regulation defines “Format” as “those data elements that provide or control the enveloping or hierarchical structure, or assist in identifying data content of, a transaction.”

GROUP HEALTH PLAN: The Transaction and Code Sets Regulation and the Privacy Regulation define “Group Health Plan” as follows:

“**Group health plan** (also see definition of **health plan** in this section) means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income

and Security Act of 1974 (ERISA), 29 U.S.C. 1002(1)), including insured and self-insured plans, to the extent that the plan provides medical care (as defined in section 2791(a)(2) of the Public Health Service Act (PHS Act), 42 U.S.C. 300gg-91(a)(2)), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise, that:

- (1) Has 50 or more participants (as defined in section 3(7) of ERISA, 29 U.S.C. 1002(7)); or
- (2) Is administered by an entity other than the employer that established and maintains the plan.”

HCPCS: The Transaction and Code Sets Regulation defines “HCPCS” as follows, “HCPCS stands for the Health [Care Financing Administration] Common Procedure Coding System.”

HHS REGULATION: The DoD Health Information Privacy Regulation provides the following definition: “45 CFR Parts 160-164 (reference (d)).”

HEALTH CARE: The DoD Health Information Privacy Regulation defines “Health Care” as “Care, services, or supplies related to the health of an individual. Health care includes but is not limited to, the following:

- (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and
- (2) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.”

HEALTH CARE CLEARINGHOUSE: The Privacy Regulation defines “Health Care Clearinghouse” as follows:

“**Health care clearinghouse** means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and “value-added” networks and switches, that does either of the following functions.

- (1) Processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction.
- (2) Receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.”

HEALTH CARE OPERATIONS: The Privacy Regulation defines “Health Care Operations” as “any of the following activities of the covered entity to the extent that the activities are related to covered functions:

- (1) Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
- (2) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
- (3) Underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of §164.514(g) are met, if applicable;
- (4) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
- (5) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and
- (6) Business management and general administrative activities of the entity, including, but not limited to:
 - (i) Management activities relating to implementation of and compliance with the requirements of this subchapter;
 - (ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that protected health information is not disclosed to such policy holder, plan sponsor, or customer.
 - (iii) Resolution of internal grievances;
 - (iv) The sale, transfer, merger, or consolidation of all or part of a covered entity with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and
 - (v) Consistent with the applicable requirements of §164.514, creating de-identified health information and fund raising for the benefit of the covered entity.

HEALTH CARE PROVIDER: The Transaction and Code Sets Regulation and the Privacy Regulation define “Health Care Provider” as follows:

“**Health care provider** means a provider of services (as defined in section 1861(u) of the Act, 42 U.S.C. 1395x(u)), a provider of medical or health services (as defined in section 1861(s) of the Act, 42 U.S.C. 1395x(s)), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.”

HEALTH INFORMATION: The Transaction and Code Sets Regulation and the Privacy Regulation define “Health Information” as follows:

“**Health information** means any information, whether oral or recorded in any form or medium, that:

- (1) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

HEALTH INSURANCE ISSUER: The Transaction and Code Sets Regulation and the Privacy Regulation define “Health Insurance Issuer” as follows:

“**Health insurance issuer** (as defined in section 2791(b) of the PHS Act, 42 U.S.C. 300gg-91(b)(2), and used in the definition of health plan in this section) means an insurance company, insurance service, or insurance organization (including an HMO) that is licensed to engage in the business of insurance in a State and is subject to State Law that regulates insurance. Such term does not include a group health plan.”

HEALTH MAINTENANCE ORGANIZATION (HMO): The Transaction and Code Sets Regulation and the Privacy Regulation define “Health Maintenance Organization (HMO)” as follows:

“**Health maintenance organization** (HMO) (as defined in section 2791(b)(3) of the PHS Act, 42 U.S.C. 300-gg-91(b)(3) and used in the definition of health plan in this section) means a federally qualified HMO, an organization recognized as an HMO under State law, or a similar organization regulated for solvency under State law in the same manner and to the same extent as such an HMO.”

HEALTH OVERSIGHT AGENCY: The Privacy Regulation defines “Health Oversight Agency” as “an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.” The DoD Health Information Privacy Regulation further states, “The term “health oversight agency” includes any DoD Component authorized under applicable DoD Regulation to oversee the MHS, including with respect to matters of quality of care, risk management, program integrity, financial management, standards of conduct, or the effectiveness of the Military Health System in carrying out its mission.”

HEALTH PLAN: The DoD Health Information Privacy Regulation defines “Health Plan” as the following:

“Any DoD program that provides or pays the cost of health care, unless exempted under subparagraphs (3) and (4). The following components of the TRICARE Program are a health plan under this Regulation:

(1) The program that provides health care under the authority of the Department of the Army to members of the uniformed services (Administrator: Surgeon General of the Army.)

(2) The program that provides health care under the authority of the Department of the Navy to members of the uniformed services. (Administrator: Surgeon General of the Navy.)

(3) The program that provides health care under the authority of the Department of the Air Force to members of the uniformed services. (Administrator: Surgeon General of the Air Force.)

(4) The Supplemental Care Program for members of the Army, Navy, Marine Corps, and Air Force who receive health care services from providers other than providers of the Department of Defense. (Administrators: Surgeon General of the Army for members of the Army; Surgeon General of the Navy for members of the Navy and Marine Corps; Surgeon General of the Air Force for members of the Air Force.)

(5) The TRICARE Prime, TRICARE Extra, and TRICARE Standard health care options offered under 32 CFR 199.17 (reference [\(e\)](#)). (Administrator: TRICARE Management Activity.)

(6) The Civilian Health and Medical Program of the Uniformed Services. (Administrator: TRICARE Management Activity.)

(7) The following are also included as health plans:

(a) The TRICARE Dental Program under 10 U.S.C. 1076a (reference [\(f\)](#)). (Administrator: TRICARE Management Activity.)

(b) The TRICARE Retiree Dental Program under 10 U.S.C. 1076c (reference [\(f\)](#)). (Administrator: TRICARE Management Activity.)

(c) The Continued Health Care Benefit Program under 10 U.S.C. 1078a (reference [\(f\)](#)). (Administrator: TRICARE Management Activity.)

(d) The Designated Provider Program under 10 U.S.C. 1073 note (reference [\(f\)](#)). (Administrator: TRICARE Management Activity.)

(e) Programs conducted as demonstration projects under 10 U.S.C. 1092 reference [\(f\)](#) to the extent not otherwise included under a health plan.

(8) Health plan excludes the following DoD Programs:

- (a)** Although part of the TRICARE Program, the programs that provide health care in medical and dental treatment facilities of the Departments of the Army, Navy, and Air Force to beneficiaries other than members of the armed forces are excluded by the HHS regulations from the definition of health plan.
- (b)** The Women, Infants, and Children (WIC) program.
- (c)** Occupational health clinics for civilian employees or contractor personnel.
- (d)** Any other policy, plan, or program to the extent that it provides, or pays for the cost of, workers compensation benefits, liability, accident, automobile, or disability income insurance, or similar insurance coverage.
- (e)** Any other program whose principal purpose is other than providing, or paying the cost of, health care.
- (f)** Any other program (other than one listed in subparagraphs (1) through (6) above or (7)) whose principal activity is the direct provision of health care to persons.
- (g)** Any other program whose principal activity is the making of grants to fund the direct provision of health care to persons.”

INDIRECT TREATMENT RELATIONSHIP: The Privacy Regulation defines “Indirect Treatment Relationship” as “a relationship between an individual and a health care provider in which:

- (1)** The health care provider delivers health care to the individual based on the orders of another health care provider; and
- (2)** The health care provider typically provides services or products, or reports the diagnosis or results associated with the health care, directly to another health care provider, who provides the services or products or reports to the individual.”

INDIVIDUAL: The Privacy Regulation defines the “Individual” as being “the person who is the subject of protected health information.” “Individual” has the same meaning as the term “individual” in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION: The Privacy Regulation defines “Individually Identifiable Health Information” as “information that is a subset of health information, including demographic information collected from an individual, and:

- (1)** Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- (2)** Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - (i)** That identifies the individual; or

(ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.”

LAW ENFORCEMENT OFFICIAL: The Privacy Regulation defines “Law Enforcement Official” as “an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to:

- (1) Investigate or conduct an official inquiry into a potential violation of law; or
- (2) Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

LIMITED DATA SET: A limited data set is protected health information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:

- (1) Names;
- (2) Postal address information, other than town or city, State, and zip code;
- (3) Telephone numbers;
- (4) Fax numbers;
- (5) Electronic mail addresses;
- (6) Social security numbers;
- (7) Medical record numbers;
- (8) Health plan beneficiary numbers;
- (9) Account numbers;
- (10) Certificate/license numbers
- (11) Vehicle identifiers and serial numbers, including license plate numbers;
- (12) Device identifiers and serial numbers;
- (13) Web Universal Resource Locators (URLs);
- (14) Internet Protocol (IP) address numbers;
- (15) Biometric identifiers, including finger and voice prints; and
- (16) Full face photographic images and any comparable images.

MAINTAIN OR MAINTENANCE: The Transaction and Code Sets Regulation defines “Maintain Or Maintenance” as referring, “to activities necessary to support the use of a standard adopted

by the Secretary (HHS), including technical corrections to an implementation specification, and enhancements, or expansion of a code set. This term excludes the activities related to the adoption of a new standard or implementation specification, or modification to an adopted standard or implementation specification.”

MARKETING: The Privacy Regulation defines “Marketing” as “to make a communication about a product or service to encourage recipients of the communication to purchase or use the product or service. Marketing excludes a communication made to an individual:

- (1) To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication, including communications about: the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits;
- (2) For the treatment of that individual; or
- (3) For case management or care coordination for that individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to that individual.”
- (4) The DoD Health Information Privacy Regulation adds the following: “To inform an individual who is a member of a uniformed service or a covered beneficiary of the Military Health System of benefits, services, coverages, limitations, costs, procedures, rights, obligations, options, and other information concerning the Military Health System as established by law and applicable regulations;”

MAXIMUM DEFINED DATA SET: The Transaction and Code Sets Regulation defines “Maximum Defined Data Set” as “all of the required data elements for a particular standard based on a specific implementation specification.”

ORGANIZED HEALTH CARE ARRANGEMENT: The DoD Health Information Privacy Regulation indicates that “the MHS is an organized health care arrangement”. The Privacy Regulation defines “Organized Health Care Arrangement” as follows:

- “(1) A clinically integrated care setting in which individuals typically receive health care from more than one health care provider;
- (2) An organized system of health care in which more than one covered entity participates, and in which the participating covered entities:
- (i) Hold themselves out to the public as participating in a joint arrangement; and
 - (ii) Participate in joint activities that include at least one of the following:
 - (A) Utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or by a third party on their behalf;

(B) Quality assessment and improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or

(C) Payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk.

(3) A group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or who have been participants or beneficiaries in such group health plan;

(4) A group health plan and one or more other group health plans each of which are maintained by the same plan sponsor; or

(5) The group health plans described in paragraph (4) of this definition and health insurance issuers or HMOs with respect to such group health plans, but only with respect to protected health information created or received by such health insurance issuers or HMOs that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.”

PAYMENT: The Privacy Regulation defines “Payment” as the following:

(1) The activities undertaken by:

(i) A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or

(ii) A covered health care provider or health plan to obtain or provide reimbursement for the provision of health care; and

(2) The activities in paragraph (1) of the definition relate to the individual to whom health care is provided and include, but are not limited to:

(i) Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance), and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following protected health information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social Security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider and/or health plan.

PRIVACY REGULATION: The Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.”

PROTECTED HEALTH INFORMATION: T Protected Health Information has the same meaning as the term “protected health information” in 45 CFR 164.501, limited to the information created or received by the contractor from or on behalf of the government. The HHS Privacy Regulation defines “Protected Health Information” as individually identifiable health information:

(1) Except as provided in paragraph (2) of this definition, that is:

(i) Transmitted by electronic media;

(ii) Maintained in any medium described in the definition of electronic media at §162.103 of this subchapter; or

(iii) Transmitted or maintained in any other form or medium.

(2) Protected health information excludes individually identifiable health information in:

(i) Education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. 1232g;

(ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and

(iii) Employment records held by a covered entity in its role as an employer.”

PSYCHOTHERAPY NOTES: The Privacy Regulation defines “Psychotherapy Notes” as “notes recorded (in any medium) by a health care provider who is a mental health professional

documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date."

PUBLIC HEALTH AUTHORITY: The Privacy Regulation defines "Public Health Authority" as "an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate." The DoD Health Information Privacy Regulation adds "The term "public health authority" includes any DoD Component authorized under applicable DoD regulation to carry out public health activities, including medical surveillance activities under DoD Directive 6490.2 (reference (g)).

REQUIRED BY LAW: The Privacy Regulation defines "Required By Law" to mean "a mandate contained in law that compels a covered entity to make a use or disclosure of protected health information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits." The DoD Health Information Privacy Regulation specifies the following: "Required by law includes any mandate contained in a DoD Regulation that requires a covered entity (or other person functioning under the authority of a covered entity) to make a use or disclosure and is enforceable in a court of law. The attribute of being enforceable in a court of law means that in a court or court-martial proceeding, a person required by the mandate to comply would be held to have a legal duty to comply or, in the case of noncompliance, to have had a legal duty to have complied. Required by law also includes any DoD regulation requiring the production of information necessary to establish eligibility for reimbursement or coverage under TRICARE/CHAMPUS.

RESEARCH: The DoD Health Information Privacy Regulation provides the following definition: "A systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to generalizable knowledge." Any reference to "Secretary" means the Secretary of the Department of Health and Human Services or his/her designee.

SECRETARY OF HEALTH AND HUMAN SERVICES: The DoD Health Information Privacy Regulation provides the following definition: "The Secretary of Health and Human Services or any other officer or employee of HHS to whom the relevant authority has been delegated. Any reference to "Secretary" means the Secretary of the Department of Health and Human Services or his/her designee.

SEGMENT: The Transaction and Code Sets Regulation defines “Segment” as “a group of related data elements in a transaction.”

STANDARD TRANSACTION: The Transaction and Code Sets Regulation defines “Standard Transaction” as “a transaction that complies with the applicable standard adopted under this part.”

STATE: The DoD Health Information Privacy Regulation defines “State” as “One of the following:

For a health plan established or regulated by Federal law, State has the meaning set forth in the applicable section of the United States Code for such health plan.

For all other purposes, State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.”

SUMMARY HEALTH INFORMATION: The Privacy Regulation defines “Summary Health Information” as “information, that may be individually identifiable health information, and:

- (1) That summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor has provided health benefits under a group health plan; and
- (2) From which the information described at §164.514(b)(2)(i) has been deleted, except that the geographic information described in §164.514(b)(2)(i)(B) need only be aggregated to the level of a five digit zip code.”

TRADING PARTNER AGREEMENT: The Transaction and Code Sets Regulation and the Privacy Regulation define “Trading Partner Agreement” as follows:

“**Trading partner agreement** means an agreement related to the exchange of information in electronic transactions, whether the agreement is distinct or part of a larger agreement, between each party to the agreement. (For example, a trading partner agreement may specify, among other things, the duties and responsibilities of each party to the agreement in conducting a standard transaction.)”

TRANSACTION: The Transaction and Code Sets Regulation and the Privacy Regulation define “Transaction” as follows:

“**Transaction** means the transmission of information between two parties to carry out financial or administrative activities related to health care. It includes the following types of information transmissions:

- (1) Health care claims or equivalent encounter information.
- (2) Health care payment and remittance advice.
- (3) Coordination of benefits.
- (4) Health care claims status.

- (5) Enrollment and disenrollment in a health plan.
- (6) Eligibility for a health plan.
- (7) Health plan premium payments.
- (8) Referral certification and authorization.
- (9) First report of injury.
- (10) Health claims attachments.
- (11) Other transactions that the Secretary may prescribe by regulation.

TREATMENT: The Privacy Regulation defines “Treatment” as the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

USE: The Privacy Regulation defines “Use” as “with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.”

WORKFORCE: The Privacy Regulation defines, “Workforce” as “employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity is under the direct control of such entity, whether or not they are paid by the covered entity.”

ADDITIONAL SUPPORTING INFORMATION PERTAINING TO THE TRANSACTION AND CODE SETS FINAL RULE

FIGURES

FIGURE B-1 COMPLAINT REPORT (SAMPLE)

CONTRACTOR MONTHLY COMPLAINT REPORT TO THE COR						
BENEFICIARY'S NAME	SPONSOR SSN	NATURE OF COMPLAINT	CONTRACTOR'S STEPS TO RESOLVE COMPLAINT	DATE OF INITIAL COMPLAINT	DATE OF EXPECTED RESOLUTION	DATE COMPLAI NT RESOLVED

ADDENDUM B
FIGURES

FIGURE B-2 RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST, DD FORM 2086

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST						REPORT CONTROL SYMBOL DD-DA&M(A)1365			
Please read instructions on back before completing form.									
1. REQUEST NUMBER	2. TYPE OF REQUEST (X one)		3. DATE COMPLETED (YYYYMMDD)	4. ACTION OFFICE					
	a. INITIAL	b. APPEAL							
5. CLERICAL HOURS (E-9/GS-8 and below)			FEE CODE	(1) TOTAL HOURS	(2) HOURLY RATE	(3) COST			
a. SEARCH			1		X \$ =				
b. REVIEW/EXCISING			2						
c. OTHER ADMINISTRATIVE COST			3						
6. PROFESSIONAL HOURS (0-1 - 0-6/GS-9 - GS-15)/CONTRACTOR				(1) TOTAL HOURS	(2) HOURLY RATE	(3) COST			
a. SEARCH			1		X \$ =				
b. REVIEW/EXCISING			2						
c. OTHER / COORDINATION / DENIAL			3						
7. EXECUTIVE HOURS (0-7- ES 1 and above)				(1) TOTAL HOURS	(2) HOURLY RATE	(3) COST			
a. SEARCH			1		X \$ =				
b. REVIEW/EXCISING			2						
c. OTHER / COORDINATION / DENIAL			3						
8. COMPUTER SEARCH				(1) TOTAL TIME	(2) RATE	(3) COST			
a. MACHINE TIME (Not PC, desktop, laptop)			4		X \$/hr =				
b. PROGRAMMER / OPERATOR TIME (Human)									
(1) Clerical Hours			1						
(2) Professional Hours			1						
9. OFFICE MACHINE COPY REPRODUCTION				(1) NUMBER	(2) RATE	(3) COST			
a. PAGES REPRODUCED FOR FILE COPY			3		X =				
b. PAGES RELEASED			5						
10. PRE-PRINTED PUBLICATIONS				(1) TOTAL PAGES	(2) RATE	(3) COST			
a. PAGES PRINTED			5		X =				
11. COMPUTER PRODUCT OUTPUT/ACTUAL COST CHARGES				(1) NUMBER	(2) ACTUAL COST	(3) COST			
a. TAPE/DISC/CD			6		X =				
b. PAPER PRINTOUT			3						
12. OTHER ADMINISTRATIVE FEES				(1) NUMBER	(2) ACTUAL COST	(3) COST			
a. ALL POSTAGE/ADMINISTRATIVE (See instructions)			3		X =				
13. AUDIOVISUAL MATERIALS				(1) NUMBER	(2) ACTUAL COST	(3) COST			
a. MATERIALS REPRODUCED			4		X =				
14. SPECIAL SERVICES				(1) NUMBER	(2) ACTUAL COST	(3) COST			
a. ALL SPECIAL SERVICES (See instructions)			6		X =				
15. MICROFICHE REPRODUCED			5		X =				
FEE CODES				16. FOR FOI OFFICE USE ONLY					
1 Chargeable to "commercial" requesters. Chargeable to "other" requesters after deducting 2 hours. 2 Chargeable to "commercial" requesters only. 3 Not chargeable to any fee category. 4 Chargeable to "commercial". Chargeable to "other" after deduction of the equivalent of 2 hours. (Example: deduct \$88.00 professional rate.) 5 Chargeable to all fee categories after deduction of 100 pages (DOES NOT include "commercial"). 6 Chargeable to all fee categories. No deductions.				a. TOTAL COLLECTABLE FEES					
				b. TOTAL PROCESSING FEES					
				c. TOTAL CHARGED					
				d. FEES WAIVED/REDUCED (X one)				Yes	No
				e. FEES NOT APPLICABLE (X one)				Yes	No
				See Chapter 6, Fee Schedule, DoD 5400.7-R, to determine appropriate assessment of fees.					

DD Form 2086, JAN 2003

PREVIOUS EDITION IS OBSOLETE.

FIGURE B-2 RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST, DD FORM 2086

INSTRUCTIONS FOR COMPLETING DD FORM 2086	
<i>This form is used to record costs associated with the processing of a Freedom of Information request.</i>	
<p>1. REQUEST NUMBER - First two digits will express Calendar Year followed by dash (-) and Component's request number. i.e., 03-001.</p> <p>2. TYPE OF REQUEST - Mark the appropriate block to indicate initial request or appeal of a denial.</p> <p>3. DATE COMPLETED - Enter year, month and day, i.e., 20031001.</p> <p>4. ACTION OFFICE - Enter the office processing this request.</p> <p>5. CLERICAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:</p> <p>Search - Time spent in locating from the files the requested information.</p> <p>Review / Excising - Time spent reviewing the document content and determining if the entire document must retain its classification or segments could be excised thereby permitting the remainder of the document to be declassified. In reviews for other than classification, FOI exemptions 2 through 9 should be considered.</p> <p>Other Administrative - Time spent in activity other than above, such as, hand carrying documents to other locations, restoring files, etc.</p> <p>- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.</p> <p>6. PROFESSIONAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:</p> <p>Search / Review / Excising, and Other - See explanation above.</p> <p>- Multiply the time in the total hours column of each category, by the hourly rate and enter the cost figures for each category.</p> <p>7. EXECUTIVE HOURS - For each applicable activity category, enter the time expended to the nearest 15 minutes in the total hours column. The activity categories are:</p> <p>Search / Review / Excising / Other - See explanation above.</p> <p>- Multiply the time in the total hours column in each category by the hourly rate and enter the cost figures for each category.</p>	<p>8. COMPUTER SEARCH - When the amount of government-owned (not leased) computer processing machine time required to complete a search is known, and accurate cost information for operation is available, enter the time used and the rate. Then, calculate the total cost which is fully chargeable to the requester.</p> <p>- Programmer and operator costs are calculated using the same method as in item 5 and 6. This cost is also fully chargeable to requesters as computer search time.</p> <p>9. OFFICE COPY REPRODUCTION - Enter the number of pages reproduced and/or released.</p> <p>- Multiply by the rate per copy and enter cost figures.</p> <p>10. PRE-PRINTED PUBLICATIONS - Enter total pages.</p> <p>- Multiply the total number of pages by the rate per page and enter cost figures.</p> <p>11. COMPUTER COPY - Enter the total number of tapes and/or printouts.</p> <p>- Multiply by the actual cost per tape or printout and enter cost figures.</p> <p>12. OTHER ADMINISTRATIVE FEES - Covers postage (when known), correspondence preparation, other non-billable charges not covered under items 5 - 7 etc.</p> <p>13. AUDIOVISUAL MATERIALS - Duplication cost is the actual cost of reproducing the material, including the wages of the person doing the work.</p> <p>14. SPECIAL SERVICES - Covers items outside of the FOIA such as authenticating records at \$5.20 per seal, overnight mail at cost, and other services for which the requester agrees to reimburse the agency.</p> <p>15. MICROFICHE REPRODUCED - Enter the number of copies and multiply by the rate per copy.</p> <p>16. FOR FOI OFFICE USE ONLY.</p> <p>Total Collectable Fees - Add the blocks in the cost column and enter total in the total collectable fees block. Apply the appropriate waiver for the category of requester prior to inserting the final figure. Further discussion of chargeable fees is contained in Chapter VI of DoD Regulation 5400.7-R.</p> <p>Total Processing Fees - Add all blocks in the cost column and enter total in the total processing fees block. The total processing fees in most cases will exceed the total collectable fees.</p> <p>Total Charged - Enter the total amount that the requester was charged, taking into account the fee waiver threshold and fee waiver policy.</p> <p>Fees Waived / Reduced - Indicated if the cost of processing the request was waived or reduced by placing an "X" in the "Yes" block or the "No" block.</p> <p>Fees Not Applicable - Indicate if the cost of processing the request was not applicable by placing an "X" in the "Yes block or the "No" block.</p>

DD FORM 2086 (BACK), JAN 2003

ADDENDUM C

FEDERAL REGISTER: MAY 15, 2000 (VOLUME 65, NUMBER 94)], SYSTEMS OF RECORDS

[Federal Register: May 15, 2000 (Volume 65, Number 94)]
[Notices]
[Page 30966-30974]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr15my00-43]

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records
AGENCY: Office of the Secretary, DoD.
ACTION: Notice to alter systems of records.

[[Page 30967]]

SUMMARY: The Office of the Secretary of Defense proposes to alter systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on June 14, 2000 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Division, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 588-0159.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 24, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 9, 2000.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DOCHA 01

System name:

Health Benefits Authorization Files (March 24, 1994, 59 FR 13934).

Changes:

System identifier:

Delete entry and replace with `DTMA 01'.

* * * * *

Categories of records in the system:

Delete entry and replace with `Original correspondence to and from individuals; medical/dental statements; medical/dental histories; Health Care Advise Nurse records; Congressional inquiries; medical/dental treatment records; authorization and pre-authorization requests for care; case status sheets; memoranda for the record; follow-up reports justifying extended care; correspondence with contractors; and work-up sheets maintained by case workers.'

* * * * *

Purpose(s):

Add a new paragraph `To determine eligibility of an individual, authorize payment, control and review health care management plans, health care demonstration programs, control accomplishment of reviews, and coordinate subject matter clearance for internal and external audits and reviews of the program.'

Routine use(s) of records maintained in the system, including categories of users and purposes of such uses:

Delete paragraph two, and add a new paragraph `Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.'

* * * * *

DTMA 01

System name:

Health Benefits Authorization Files.

System location:

TRICARE Management Activity, Department of Defense, 16401 East CentreTech Parkway, Aurora, CO 80011-9043, and Managed Care Contractors under contract to TRICARE. A listing of TRICARE Managed Care Contractors is available from the system manager.

Categories of individuals covered by the system:

All individuals who seek authorization or pre-authorization for medical and dental health care under TRICARE/CHAMPUS and CHAMPVA.

Categories of records in the system:

Original correspondence to and from individuals; medical/dental statements; medical/dental histories; Health Care Advise Nurse records; Congressional inquiries; medical/dental treatment records; authorization and pre-authorization requests for care; case status sheets; memoranda for the record; follow-up reports justifying extended care; correspondence with contractors; and work-up sheets maintained by case workers.

Authority for maintenance of the system:

41 CFR part 101-11.000; chapter 55, 10 U.S.C. 613, chapter 17, 38 U.S.C.; 32 CFR part 199; and E.O. 9397 (SSN).

Purpose(s):

To maintain and control records pertaining to requests for authorization or pre-authorization of health and dental care under TRICARE/CHAMPUS.

To determine eligibility of an individual, authorize payment, control and review health care management plans, health care demonstration programs, control accomplishment of reviews, and coordinate subject matter clearance for internal and external audits and reviews of the program.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

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Retrievability:

Information is retrieved by sponsor's Social Security Number and sponsor's or beneficiary's name.

Safeguards:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Decentralized automated segments within contractor's operations are accessible on-line only to authorized persons possessing user identification codes. Security systems and/or security guards protect buildings where records are maintained.

Retention and disposal:

Automated indexes are maintained for six years. Hard copy records are closed out at the end of the calendar year in which finalized and held six additional years. Where hard copy records have been converted to electronic, microfilm, imaging, or optical formats, the hard copy is destroyed and the electronic, microfilm, imaging, or optical format is kept by the contractor for six years after claim is processed to completion.

System manager(s) and address:

TRICARE Management Activity, Department of Defense, Administration and Evaluation Directorate, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

Notification procedure:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Record access procedures:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written requests for information should include the full name of the beneficiary, the full name of the sponsor and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.

Contesting record procedures:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

Record source categories:

Contractors, Health Benefits Advisors, all branches of the Uniformed Services, congressional offices, providers of care, consultants and individuals.

Exemptions claimed for the system:

None.

DOCHA 02

System name:

Medical Care Inquiry Files (March 24, 1994, 59 FR 13936).

Changes:

System identifier:

Delete entry and replace with `DTMA 02'.

System name:

Delete entry and replace with `Medical/Dental Care and Claims Inquiry Files'.

* * * * *

Purpose(s):

Delete entry and replace with `To maintain and control records pertaining to requests for information concerning an individual's TRICARE/CHAMPUS eligibility status, the benefits provided under programs of TRICARE/CHAMPUS and CHAMPVA and the processing of individual TRICARE/CHAMPUS and CHAMPVA claims.'

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete paragraph two, and add a new paragraph `Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.'

* * * * *

Record source categories:

Delete entry and replace with `Contractors, congressional offices, Health Benefits Advisors, all branches of the Uniformed Service, congressional offices, providers of care, consultants and individuals.'

* * * * *

DTMA 02

System name:

Medical/Dental Care and Claims Inquiry Files.

System location:

TRICARE Management Activity, Department of Defense, 16401 East CentreTech Parkway, Aurora, CO 80011-9043, and Managed Care Contractors under contract to TRICARE. A listing of TRICARE Managed Care Contractors is available from the system manager.

Categories of individual covered by the system:

All individuals who seek information concerning health care (medical and dental) under TRICARE/CHAMPUS and CHAMPVA.

Categories of records in the system:

Documents reflecting inquiries received from private individuals for information on TRICARE/CHAMPUS and CHAMPVA and replies thereto; congressional inquiries on behalf of constituents and replies thereto; and files notifying personnel of eligibility or termination of benefits.

Authority for maintenance of the system:

41 CFR 101-11.000; chapter 55, 10 U.S.C.; section 613, chapter 17, 38 U.S.C.; and E.O. 9397 (SSN).

Purpose(s):

To maintain and control records pertaining to requests for information concerning an individual's TRICARE/CHAMPUS eligibility status, the benefits provided under programs of TRICARE/CHAMPUS and CHAMPVA and the processing of individual TRICARE/CHAMPUS and CHAMPVA claims.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their

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statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**Storage:**

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

Retrievability:

Information is retrieved by case number, sponsor name and/or Social Security Number, and inquirer name.

Safeguards:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Automated segments are accessible only by authorized persons possessing user identification codes. Security systems and/or security guards protect buildings where records are maintained.

Retention and disposal:

Paper records are retained in active file until end of calendar year in which closed, held two additional years, and then destroyed. Where hard copy records have been converted to electronic, microfilm, imaging or optical formats, the hard copy record is destroyed and the electronic, microfilm, imaging, or optical format is kept by the contractor for six years after claim is processed to completion.

System manager(s) and address:

TRICARE Management Activity, Department of Defense, Administration and Evaluation Directorate, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

Notification procedure:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Record access procedures:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written request for information should include the full name of the beneficiary, the full name of the sponsor and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.

Contesting record procedures:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

Record source categories:

Contractors, congressional offices, Health Benefits Advisors, all branches of the Uniformed Service, congressional offices, providers of care, consultants and individuals.

Exemptions claimed for the system:

None.

DOCHA 04

System name:

Legal Opinion Files (February 22, 1993, 58 FR 10227).

Changes:

System identifier:

Delete entry and replace with `DTMA 03'.

* * * * *

Categories of individuals covered by the system:

Delete entry and replace with `Individuals who have contacted or corresponded with TRICARE Management Activity regarding any matter requiring legal clarification or resolution.'

* * * * *

Purpose(s):

Delete entry and replace with `TRICARE Management Activity uses these records to address and resolve legal issues and for research, precedent, historical, and record purposes.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and replace with `In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys

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in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.'

* * * * *

DTMA 03

System name:

Legal Opinion Files.

System location:

TRICARE Management Activity, Department of Defense, Office of General Counsel, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

Categories of individuals covered by the system:

Individuals who have contacted or corresponded with TRICARE Management Activity regarding any matter requiring legal clarification or resolution.

Categories of records in the system:

Inquiries received from individuals, attorneys, fiscal administrators, hospital contractors, other government agencies, Health Care Advise Nurse records, and congressional offices. Files contain legal opinions, correspondence, memoranda for the record, and similar documents. Medical/dental treatment records, authorizations and pre-authorizations, care and claims inquiry documents, and medical/dental history files may be included in these records, as appropriated to document TRICARE legal determinations.

Authority for maintenance of the system:

41 CFR 101-11.000; Chapter 55, 10 U.S.C. 613, Chapter 17, 38 U.S.C.; 32 CFR part 199; and E.O. 9397 (SSN).

Purpose(s):

TRICARE Management Activity uses these records to address and resolve legal issues and for research, precedent, historical, and record purposes.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

Retrievability:

Information is retrieved by subject matter with cross-reference by individual name and/or Social Security Number.

Safeguards:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Security systems and/or security guards protect buildings where records are maintained.

Retention and disposal:

Records are permanent. Paper records are retired to the Denver Regional Records Center when ten years old or when no longer needed for current business. Records are transferred to the NARA when thirty years old. Electronic and other non-paper media records are maintained until no longer needed for current business and are then deleted or destroyed.

System manager(s) and address:

TRICARE Management Activity, Department of Defense, Office of General Counsel, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

Notification procedure:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Record access procedures:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written requests for information should include the full name of the beneficiary, the full name of the sponsor, and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should be able to provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.

Contesting record procedures:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

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Record source categories:

Individuals (TRICARE/CHAMPUS and CHAMPVA beneficiaries, sponsors, or others), attorneys, fiscal administrators, hospital contractors, managed care support contractors, providers of care, medical records, other government agencies (Federal, state, local and foreign), and Congressional offices.

Exemptions claimed for the system:

None.

DOCHA 07

System name:

Medical Claim History Files (March 24, 1994, 59 FR 13937).

Changes:

System identifier:

Delete entry and replace with `DTMA 04'.

System name:

Add `/Dental' after `Medical.

* * * * *

Categories of records in the system:

Delete entry and replace with `File contains claims, billings for services, applications or approval forms, enrollment files, recoupment files, third-party liability files, fraud and abuse files, case management files, resource sharing files, utilization management/quality assurance files, payment files, medical/dental records, family history files, records of grievances with a medical/dental provider, appeals, hearings, or any other correspondence, memoranda, or reports which are acquired or utilized in the development and processing of TRICARE/CHAMPUS or CHAMPVA claims. Records are also maintained on health care demonstration projects, including enrollment and authorization agreements, correspondence, memoranda, forms and reports, which are acquired or utilized during the projects.'

* * * * *

Purpose(s):

Delete entry and replace with 'TRICARE Management Activity and its contractors, DoD staff (including Military Treatment Facilities, clinics and Lead Agent Staff) use the information to control and process health care benefits available under TRICARE/CHAMPUS and CHAMPVA including the processing of medical/dental claims, the control and approval of medical/dental treatments, issuance of deductible certificates, and necessary interface with providers of health care. The system also supports audits of contractor-processed claims to determine payment and occurrence accuracy of the contractor's adjudication process.'

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

Delete entry and replace with 'In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.'

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DTMA 04

System name:

Medical/Dental Claim History Files.

System location:

TRICARE Management Activity, Department of Defense, 16401 East CentreTech Parkway, Aurora, CO 80011-9043, and Managed Care Contractors under contract to TRICARE. A listing of TRICARE Managed Care Contractors is available from the system manager.

Categories of individuals covered by the system:

Eligible beneficiaries and all individuals who seek health care (medical and dental) under TRICARE/CHAMPUS and CHAMPVA.

Categories of records in the system:

File contains claims, billings for services, applications or approval forms, enrollment files, recoupment files, third-party liability files, fraud and abuse files, case management files, resource sharing files, utilization management/quality assurance files, payment files, medical/dental records, family history files, records of grievances with a medical/dental provider, appeals, hearings, or any other correspondence, memoranda, or reports which are acquired or utilized in the development and processing of TRICARE/CHAMPUS or CHAMPVA claims. Records are also maintained on health care demonstration projects, including enrollment and authorization agreements, correspondence, memoranda, forms and reports, which are acquired or utilized during the projects.

Authority for maintenance of the system:

41 CFR 101-11.000; chapter 55, 10 U.S.C. 613, chapter 17, 38 U.S.C.; 32 CFR part 199; and E.O. 9397 (SSN).

Purpose(s):

TRICARE Management Activity and its contractors, DoD staff (including Military Treatment Facilities, clinics and Lead Agent Staff) use the information to control and process health care benefits available under TRICARE/CHAMPUS and CHAMPVA including the processing of medical/dental claims, the control and approval of medical/dental treatments, issuance of deductible certificates, and necessary interface with providers of health care. The system also supports audits of contractor-processed claims to determine payment and occurrence accuracy of the contractor's adjudication process.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department

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of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system

Disclosure to consumer reporting agencies:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting act of 1966 (15 U.S.C. 1681a(f)) or the Federal Claims Collections Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of the disclosure is to aid in the collection of outstanding debts owed to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

Retrievability:

Information is retrieved by sponsor's name; sponsor's Social Security Number; beneficiary's name; beneficiary's Social Security Number; provider's name; provider's number (Tax Identification Number or Social Security Number); internal control number; classification of medical diagnosis; procedure code; geographical location of care provided; and selected utilization limits.

Safeguards:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Decentralized automated segments within contractor's operations are accessible on-line only to authorized persons possessing user identification codes. The automated portion of the Primary System is accessible only through TRICARE Management Activity on-line data systems. Security systems and/or security guards protect buildings where records are maintained.

Retention and disposal:

Paper records are closed out at the end of the calendar year in which finalized and held six additional years and then destroyed. Where hard copy records (except Claims History Files) have been converted to electronic, microfilm, imaging, or optical formats, the hard copy record is destroyed and the electronic, microfilm, imaging, or optical format is kept by the contractor for six years after claim is processed to completion and then destroyed. Claims History Files maintained in electronic format are kept for ten years and are then destroyed or deleted.

System manager(s) and address:

TRICARE Management Activity, Department of Defense, Administration and Evaluation Directorate, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

Notification procedure:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Record access procedures:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written request for information should include the full name of the beneficiary, the full name of the sponsor and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.'

Contesting record procedures:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

Record source categories:

Contractors, Health Benefit Advisors; other Components of the Department of Defense; all branches of the Uniformed Services; Congressional offices; providers of care; consultants; and individuals

Exemptions claimed for the system:

None.

DOCHA 09

System name:

Grievance Records (August 9, 1993, 58 FR 42303).

Changes:

System identifier:

Delete entry and replace with `DTMA 05'

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and replace with `In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

To disclose information to officials of the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission, when requested in performance of their authorized duties.

To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to the performance of their exclusive representation duties concerning personnel policies, practices, and matters affecting working conditions.

The `Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.'

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DTMA 05

System name:

Grievance Records.

System location:

TRICARE Management Activity, Department of Defense, Personnel Office, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Categories of individuals covered by the system:

Current or former Federal employees of TRICARE Management Activity or its predecessor, Office of Civilian Health and Medical Program of the Uniformed Services who have submitted grievances in accordance with 5 U.S.C. 2302 and 5 U.S.C. 7121 or a negotiated procedure.

Categories of records in the system:

Documents related to grievances including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that TRICARE Management Activity may establish through negotiations with recognized labor organizations.

Authority for maintenance of the system:

5 U.S.C. 2302; 5 U.S.C. 7121; and E.O. 11491.

Purpose(s):

To control and process grievances of Federal employees of TRICARE Management Activity or its predecessor, Office of Civilian Health and Medical Program of the Uniformed Services.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

To disclose information to officials of the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission, when requested in performance of their authorized duties.

To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to the performance of their exclusive representation duties concerning personnel policies, practices, and matters affecting working conditions.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records maintained in file folders.

Retrievability:

Information is retrieved by individual name.

Safeguards:

Security systems and/or security guards protect buildings where records are maintained.

Retention and disposal:

Records are closed at the end of the calendar year in which they are closed, held an additional four years, and then destroyed.

System manager(s) and address:

TRICARE Management Activity, Department of Defense, Personnel Office, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

Notification procedure:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Record access procedures:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written requests for information should include the full name of the individual.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

Contesting record procedures:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

Record source categories:

Individuals, witnesses, agency officials, and organizations.

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Exemptions claimed for the system:

None.

[FR Doc. 00-12072 Filed 5-12-00; 8:45 am]

BILLING CODE 5001-10-F

